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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**EDWARD MAKARON, on
behalf of himself and all others
similarly situated,**

Plaintiff,

v.

ENAGIC USA, INC.,

Defendant.

Case No.: 2:15-cv-05145-DDP-E

**NOTICE OF MOTION AND
MOTION FOR CLASS
CERTIFICATION PURSUANT TO
FED. R. CIV. P. 23(B)(2) AND (B)(3)
AND TO BE APPOINTED CLASS
COUNSEL**

Hon. Dean D. Pregerson

Date: March 13, 2017

Time: 10:00 am

**Place: Court Room 3, 312 N Spring
St, Los Angeles, CA 90012**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on or about March 13, 2017, at 10:00 a.m.,
before the Honorable Dean D. Pregerson of the United States District Court,
Central District of California, Courtroom Three, located at 312 North Spring

**NOTICE OF MOTION AND MOTION FOR CLASS CERTIFICATION
PURSUANT TO FED. R. CIV. P. 23(B)(2) AND (B)(3) AND TO BE
APPOINTED CLASS COUNSEL**

1 Street Los Angeles, CA 90012-4701, Plaintiff EDWARD MAKARON
2 (“Plaintiff”) will move this Court for an order granting Plaintiff’s Motion for
3 Class Certification and for Appointment as Class Counsel, against ENAGIC
4 USA, INC. (“Defendant”) pursuant to Fed. R. Civ. P. 23(B)(2) and (B)(3),
5 concerning violations of the Telephone Consumer Protection Act, 47 U.S.C. §§
6 227 *et seq.*

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8 Plaintiff will move the Court to certify a 47 U.S.C. § 227(b)(1)(A)(iii) class
9 consisting of:
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12 All persons within the United States who received any
13 telephone calls from Defendant or one of its Distributor-
14 Agents to said person’s cellular telephone made through
15 the use of any automatic telephone dialing system or an
16 artificial or prerecorded voice and such person had not
17 previously consented to receiving such calls within the
four years prior to the filing of the Complaint.

18 Plaintiff will also move the Court for appointment of Plaintiff as Class
19 Representative, and for appointment of Plaintiff’s attorneys as Class Counsel.
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21 This Motion is made pursuant to the Fed. R. Civ. P. 23(b)(2) and (b)(3), a
22 hybrid class action, on the grounds that the Rule 23 prerequisites are satisfied.

23 This Motion is based upon this Notice, the accompanying Memorandum of Points
24 and Authorities, the declarations and exhibits thereto, the Complaint, all other
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1 pleadings and papers on file in this action, and upon such other evidence and
2 arguments as may be presented at the hearing on this matter.
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4 Plaintiff files the Motion for Class Certification to procedurally preserve
5 Plaintiff's rights pursuant to the decision in *Genesis Healthcare Corp. v. Symczyk*,
6 133 S. Ct. 1523 (U.S. 2013), although Plaintiff disagrees that the *Genesis* decision
7 applies to class actions pursuant to Fed. R. Civ. P. 23.
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10 Dated: June 15, 2016
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12 By: /s/ Todd M. Friedman
13 Todd M. Friedman
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